

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

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CHARLES CRADDOCK

Petitioner,

v.

FRANK SHEWALTER, WARDEN,

Respondent.  
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CASE NO. 1:09-CV-2860

OPINION & ORDER  
[Resolving Doc. No. [1](#)]

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

On December 9, 2009, Petitioner Charles Craddock filed a petition for a writ of habeas corpus under [28 U.S.C. § 2254](#). Under Local Rule 72.2, the matter was referred to Magistrate Judge George J. Limbert. On November 18, 2011, Magistrate Judge Limbert issued a Report and Recommendation recommending that the Court dismiss the petition due to procedural default and failure on the merits. [Doc. [7](#).]

The Federal Magistrates Act requires a district court to conduct a *de novo* review only of those portions of a Report and Recommendation to which the parties have made an objection. [28 U.S.C. § 636\(b\)\(1\)\(C\)](#). Parties must file any objections to a Report and Recommendation within fourteen days of service. *Id.*; [Fed. R. Civ. P. 72\(b\)\(2\)](#). Failure to object within this time waives a party's right to appeal the district court's judgment. [Thomas v. Arn](#), 474 U.S. 140, 145 (1985); [United States v. Walters](#), 638 F.2d 947, 949-50 (6th Cir. 1981). Absent objection, a district court

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may adopt the magistrate judge's report without review. [See Thomas, 474 U.S. at 149-150.](#)

In this case, Petitioner Craddock has not filed any objection to the Report & Recommendation. Moreover, having conducted its own review of the record and the parties' briefs, the Court agrees with the recommendation of Magistrate Judge Limbert that the petition should be dismissed. The Petitioner procedurally defaulted ground one of the petition. Ground two fails on the merits: The state trial court did not violate the Petitioner's due process rights—or the ex post facto clause—by sentencing him without making specific findings.

Accordingly, the Court **ADOPTS** Magistrate Judge Limbert's Report and Recommendation and **DENIES** Petitioner Craddock's petition for a writ of habeas corpus. Further, the Court certifies, pursuant to [28 U.S.C. § 1915\(a\)\(3\)](#), that an appeal from this decision could not be taken in good faith, and no basis exists upon which to issue a certificate of appealability. [28 U.S.C. § 2253\(c\); Fed. R. App. P. 22\(b\).](#)

IT IS SO ORDERED.

Dated: June 18, 2012

s/ James S. Gwin  
JAMES S. GWIN  
UNITED STATES DISTRICT JUDGE